

CHAPTER 101
BOARD OF MORTUARY SCIENCE EXAMINERS

[Prior to 9/21/88, see Health Department[470] Ch 147]

645—101.1(147,156) College educational requirements.

101.1(1) Rescinded IAB 7/10/91, effective 8/14/91.

101.1(2) Rescinded IAB 7/10/91, effective 8/14/91.

101.1(3) *College educational requirements.* An applicant shall successfully complete:

a. A minimum of 60 semester hours as indicated on the transcript from a regionally accredited college or university with a minimum of a 2.0 or “C” grade point average. The 60 semester hours shall not include any technical mortuary science courses; and

b. A course in mortuary science from a school accredited by the American Board of Funeral Service Education.

101.1(4) Rescinded IAB 7/6/94, effective 8/10/94.

This rule is intended to implement Iowa Code section 156.3.

645—101.2(147,156) Requirements for licensure.

101.2(1) All applications for licensure must be made upon the official forms supplied by the Department of Public Health, Lucas Building, Des Moines, Iowa 50319-0075.

101.2(2) These completed applications shall be filed with the department of public health, together with satisfactory evidence of completion of the educational requirements. The application fee must be enclosed with the application, and the fee and application must be filed with the department of public health before beginning the internship.

101.2(3) Applicants must present an official transcript of grades to the department of public health with their application, showing the completion of training in a college of mortuary science approved by the Iowa state board of mortuary science examiners.

101.2(4) Rescinded IAB 9/9/98, effective 10/14/98.

101.2(5) The board of mortuary science examiners shall accept a certificate of examination issued by the International Conference of Funeral Service Examining Boards, Inc. indicating a passing score on the examination as prescribed at Iowa Code sections 156.4(4) and 156.13.

Applicants will be required to pass an examination covering the Iowa law and rules for mortuary science prior to being licensed in Iowa. A 75 percent score shall be required for passing of this examination.

101.2(6) to 101.2(8) Rescinded IAB 9/15/93, effective 10/20/93.

101.2(9) Rescinded effective 10/21/82.

101.2(10) An applicant detected seeking or giving help during the hours of examination will be dismissed and the applicant's papers canceled, but the applicant will be entitled to return for examination after 12 months from the examination date.

101.2(11) Applications for licensure shall be retained by the board office for two years from the date the application was received. To keep the application active beyond two years, the applicant must submit a written request to the board 60 days prior to expiration.

101.2(12) License renewal. Beginning July 1, 1999, a license to practice as a funeral director shall expire every two years on the fifteenth day of the licensee's birth month. Continuing education requirements shall be completed within the same renewal period for each license holder. An application and a continuing education report form for renewal of license to practice as a funeral director shall be mailed to the licensee at least 60 days prior to the expiration of the license. Failure to receive the renewal application shall not relieve the license holder of the obligation to pay biennial renewal fees on or before the renewal date.

101.2(13) Beginning July 1, 1999, the continuing education requirements will coincide with the renewal compliance period. The licensee shall submit to the board office 30 days before licensure expiration the application and continuing education report form with the renewal fee as specified in rule 101.98(147). Licensees who were issued their initial license within six months of their birth month will not be required to renew their license until the fifteenth day of their birth month two years later. The new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license was originally issued. Licensees will be required to report 24 hours of continuing education for every renewal thereafter.

101.2(14) If the renewal fees are received by the board within 30 days after the renewal expiration date, a penalty fee is charged. If renewal fees are received more than 30 days after the renewal expiration date, the license is lapsed. An application for reinstatement must be filed with the board with the reinstatement fee, the renewal fee and the penalty fee as outlined in rule 101.98(147). Licensees who fail to submit the renewal application and complete documentation of continuing education hours shall be required to pay a penalty fee and shall be subject to an audit of their continuing education report.

101.2(15) Funeral directors who have not fulfilled the requirements for license renewal or an exemption in the required time frame will have a lapsed license and shall not engage in the practice of mortuary science.

645—101.3(147,156) Internship and preceptorship.

101.3(1) *Internship.*

a. The intern applicant must serve a minimum of one year of internship in Iowa under the direct supervision of a board-certified preceptor. The beginning and ending dates of the internship shall be indicated on the internship certificate. The intern applicant shall only engage in the practice of mortuary science during the time indicated on the internship certificate. The intern applicant must be approved and licensed following a successful internship before the intern applicant may practice mortuary science.

b. The intern applicant shall, during this internship, embalm not less than 25 dead human bodies and direct or assist in the direction of not less than 25 funerals under the direct supervision of the certified preceptor and report on forms furnished by the department of public health. Work on the first 5 embalming cases and funeral cases must be completed in the physical presence of the preceptor. The first 12 embalming cases and first 12 funeral case reports must be completed and submitted by the completion of the sixth month of the internship.

c. Before being eligible for licensure, the intern must have filed the 25 completed embalming and funeral directing case reports and a 6-month and a 12-month evaluation form with the department of public health.

d. No licensed funeral director shall permit any person, in the funeral director's employ or under the funeral director's supervision or control, to serve an internship in funeral directing unless that person has a certificate of registration as a registered intern from the department of public health.

e. No licensed funeral director or licensed funeral establishment shall have more than one intern funeral director for the first 100 human remains embalmed or funerals conducted per year, and with a maximum of two interns per funeral establishment.

f. Registered interns shall not advertise or hold themselves out as funeral directors or use the degree F.D. or any other title or abbreviation indicating that the intern is a funeral director.

g. The length of an internship may be extended if the board determines that the intern applicant requires additional time or supervision in order to meet the minimum proficiency in the practice of mortuary science.

h. Every person who is registered as an intern or preceptor with the department of public health shall have a registration certificate posted in a conspicuous place in the preceptor's place of business.

i. Internship begins upon approval and due notification by the board. Application for change of preceptor or any other alteration must be made in writing and approval granted by the board before the status of the intern is altered.

j. When, for any valid reason, the board feels that the education of a registered intern being received under the supervision of the present preceptor might be detrimental to the intern or the profession at large, the intern will be required to serve the remainder of the internship under the supervision of a licensed funeral director meeting the approval of the board.

k. The intern shall complete a confidential evaluation of the preceptorship program at the end of the internship on a form provided by the board. This shall be submitted before the funeral director's license can be issued to the intern.

101.3(2) Preceptorship.

a. A prospective preceptor must have a valid preceptor certificate. A preceptor must have completed a training course within five years of accepting an intern. If the certification is older than five years, the director must recertify as specified by the board.

b. Any duly Iowa licensed and practicing funeral director in good standing for a minimum of five years with the board of mortuary science examiners will be eligible to be certified as a preceptor. This certificate is awarded after completion of a training course as prescribed by the board covering the subjects specified by the board. The training course may be counted toward the continuing education hours required for that licensing period.

c. The preceptor is required to file a six-month progress report of the intern on a board-prescribed form. This form is to be signed by the preceptor and the intern before submission to the board by the end of the seventh month.

d. The preceptor will complete a confidential evaluation of the intern at the end of the internship which must be filed within two weeks of the end of the internship.

e. Certify that the intern shall engage in the practice of mortuary science only during the time frame designated on the official intern certificate.

f. A preceptor's duties shall include the following:

- (1) Be physically present and supervise the first five embalmings and first five funeral cases.
- (2) Familiarize the intern in the areas specified by the preceptor training outline.
- (3) Read and sign each of the 25 embalming and the 25 funeral directing reports done by the intern.
- (4) Complete a written six-month report of the intern on a form provided by the board. This report is to be reviewed with and signed by the intern and submitted to the board before the end of the seventh month.

(5) At the end of the internship, complete a confidential evaluation of the intern on a form provided by the board. This shall be submitted within two weeks of the end of the internship.

g. Failure of a preceptor to fulfill the requirements set forth by the board, including failure to remit the required six-month progress report, as well as the final evaluation, shall result in an investigation of the preceptor by the board.

h. If a preceptor does not serve the entire year, the board will evaluate the situation; and if a certified preceptor is not available, a licensed director may serve with the approval of the board.

645—101.4(147,156) Endorsement rules.

101.4(1) Any person holding a valid license as a funeral director in another state having requirements substantially equal to those in Iowa may apply for a license to practice in this state by filing an application to practice by endorsement.

101.4(2) The following shall be required:

- a. An application fee.
- b. Official verification of license status mailed directly from the endorsing state to the board of-
fice.

c. An official transcript of grades showing the completion of a mortuary science program accredited by the American Board of Funeral Service Education.

d. Official transcript of grades showing 60 semester hours from a regionally accredited college or university with a minimum of a 2.0 or "C" grade point average.

e. Successful passage of the Iowa law and rules examination with a score of at least 75 percent.

101.4(3) Rescinded IAB 9/9/98, effective 10/14/98.

101.4(4) All applicants for endorsement licenses shall hold original license in good standing obtained upon examination in the state from which the endorsement was received. The examination shall have covered substantially the same subjects in which an examination is required in Iowa, showing the applicant has attained a passing grade. Applicants licensed before 1980 are exempt from showing a passing grade on an examination. The applicant shall have met the educational requirements of the state of Iowa for a funeral director.

101.4(5) Each applicant must furnish certified evidence of two or more years of actual practice as a licensed funeral director in the state from which the applicant desires to endorse.

101.4(6) Rescinded, effective 7/1/80.

101.4(7) Licensees who were issued their initial license by endorsement within six months of their birth month will not be required to renew their license until the fifteenth day of their birth month two years later. The new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license was originally issued.

101.4(8) Rescinded, effective 7/1/80.

645—101.5(272C) Reinstatement of lapsed license. Application for reinstatement of a lapsed license may not preclude disciplinary actions by the board as provided in this chapter.

101.5(1) A licensee who allows a license to lapse by failing to renew it within 60 days of renewal date may apply for reinstatement as follows:

a. Submit a completed application for reinstatement of a license to practice funeral directing.

b. Pay the renewal fee(s).

c. Rescinded IAB 9/9/98, effective 10/14/98.

d. Provide evidence of completion of 12 hours of continuing education for each lapsed year, not to exceed 72 hours.

e. Must successfully pass the state law and rules examination with a score of at least 75 percent.

101.5(2) Rescinded IAB 9/9/98, effective 10/14/98.

645—101.6(147,272C) Inactive practitioners.

101.6(1) Exemptions. A licensee who is not engaged in the practice of mortuary science in the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of mortuary science in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

101.6(2) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and have obtained a certificate of exemption shall, prior to engaging in the practice of mortuary science in the state of Iowa, satisfy the following requirements for reinstatement:

a. Submit a written application for reinstatement on a form provided by the board with the reinstatement fee.

b. Furnish, in addition to the application, evidence of one of the following:

(1) The full-time practice of mortuary science in another state of the United States or District of Columbia and completion of continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

(2) Completion of 24 hours of board-approved continuing education and successful completion of the state law and rules examination administered by the board.

645—101.7(17A) Mandatory disclosure. Rescinded IAB 9/9/98, effective 10/14/98.

645—101.8 to 101.97 Reserved.

645—101.98(147) Fees. All fees are nonrefundable.

101.98(1) The application fee for a license to practice mortuary science issued upon the basis of examination or endorsement is \$50.

101.98(2) Rescinded IAB 9/15/93, effective 10/20/93.

101.98(3) Fee for renewal of a funeral director's license for a biennial period is \$100. Biennial renewal fee for a license to practice mortuary science for the 1999 renewal cycle only is as follows:

<u>Birth Month</u>	<u>Prorated Fee</u>
July 1999	\$100
August 1999	\$104
September 1999	\$108
October 1999	\$112
November 1999	\$117
December 1999	\$121
January 2000	\$125
February 2000	\$129
March 2000	\$133
April 2000	\$137
May 2000	\$142
June 2000	\$146

101.98(4) Penalty fee for failure to renew a funeral director's license within 30 days following its expiration is \$100.

101.98(5) Penalty fee for failure to obtain required continuing education within the compliance period is \$100.

101.98(6) Rescinded IAB 5/15/91, effective 6/19/91.

101.98(7) Fee for a certified statement that a licensee is licensed in this state is \$10.

101.98(8) Fee for a duplicate license if the original is stolen or lost is \$10.

101.98(9) Application fee for reinstatement of a funeral director's license is \$50.

101.98(10) Fee for retake of the state examination is \$50.

101.98(11) Fee for a board member to unofficially review a transcript prior to the individual applying for licensure in Iowa is \$10.

101.98(12) Fee for returned check for insufficient funds is \$15.

101.98(13) Fee for funeral establishment is \$75.

101.98(14) Fee for three-year renewal of funeral establishment is \$75.

101.98(15) Fee for reinstatement of a funeral establishment is \$50.

These rules are intended to implement Iowa Code sections 147.10, 147.29, 147.36, 147.80, 156.8 and 156.9.

645—101.99 Reserved.

CONTINUING EDUCATION FOR FUNERAL DIRECTORS

645—101.100(147) Definitions. For the purpose of these rules, the following definitions shall apply:

“Accredited sponsor” means a person or an organization sponsoring continuing education activities which has been approved by the board as a sponsor pursuant to these rules. During the time an organization, educational institution, or person is an accredited sponsor, all continuing education activities of such person or organization may be deemed automatically approved.

“Approved program or activity” means a continuing education program activity meeting the standards set forth in these rules which has received advance approval by the board pursuant to these rules.

“Board” means the board of mortuary science examiners.

“Hour” of continuing education means a clock-hour of at least 50 minutes spent by a licensee in actual attendance at an approved continuing education activity.

“Licensee” means any person licensed to practice as a funeral director in the state of Iowa.

645—101.101(272C) Continuing education requirements.

101.101(1) Each licensee shall complete during the biennium a minimum of 24 hours of continuing education approved by the board. Compliance with the requirements of continuing education is a prerequisite for license renewal in each subsequent license renewal period.

101.101(2) The continuing education compliance period shall be each biennium beginning the fifteenth day of the licensee's birth month and ending two years later on the fifteenth day of the birth month. Approved continuing education programs attended during this time period shall be used as evidence of fulfilling continuing education requirements.

101.101(3) Hours of continuing education credit may be obtained by attending and participating in a continuing education activity, either previously accredited by the board or which otherwise meets the requirement herein and is approved by the board pursuant to rule 101.103(272C).

101.101(4) Carryover credit of continuing education hours will not be permitted. Continuing education credit will only be allowed once for the same course in the renewal cycle.

101.101(5) It is the responsibility of each licensee to finance the costs of continuing education.

101.101(6) When an initial license is issued via examination, the new licensee is exempt from meeting the continuing education requirement for the continuing education biennium in which the license was originally issued.

101.101(7) For the 1999 renewal cycle only, 30 hours of continuing education will be due. Continuing education hours will return to 24 hours each biennium at the end of this prorated compliance period.

101.101(8) Continuing education credit earned from January 1, 1999, through June 30, 1999, may be used for either the July 1999 compliance or the following biennium period. The licensee may use the continuing education credit hours earned only once. Credit may not be duplicated for both compliance periods. This subrule applies only for the renewal biennium of 1999 and the following renewal biennium.

This rule is intended to implement Iowa Code section 272C.2.

645—101.102(272C) Standards for approval. A continuing education activity shall be qualified for approval if the board determines that:

101.102(1) It constitutes an organized program of learning (including a workshop or symposium) which contributed directly to the professional competency of the licensee; and

101.102(2) It pertains to common subjects or other subject matters which integrally relate to the practice of mortuary science. The course shall fall into one of the categories outlined below, and the course shall be applicable for funeral service practitioners. These categories are consistent with those recommended by the American Board of Funeral Service Education. The following categories are accepted:

a. Public health and technical: chemistry, microbiology and public health, anatomy, pathology, restorative art, arterial and cavity embalming.

b. Business management: accounting, funeral home management and merchandising, computer application, funeral directing, small business management.

c. Social sciences/humanities: psychology of grief, counseling, sociology of funeral service, history of funeral service, communication skills, philosophy.

d. Legal, ethical, regulatory: mortuary law, business law, ethics, federal trade commission, OSHA, ADA, EPA, preneed regulation, social services, veterans affairs benefits, insurance, state and county burial benefits, legislative concerns; and

101.102(3) It is conducted by individuals who have a special education, training and experience by reason of which said individuals should be considered experts concerning the subject matter of the program, and is accompanied by a paper, manual or written outline which substantially pertains to the subject matter of the program.

101.102(4) Except as may be allowed pursuant to rule 645—101.107(272C), a licensee may receive credit for the total biennium required continuing education hours in the form of self-study, including television viewing, Internet, video- or sound-recorded programs, or correspondence work, or by other similar means as authorized by the board. Self-study credits must be accompanied by a certificate of testing and successful completion from the sponsoring organization.

101.102(5) Successfully completed college courses that fall into the general categories delineated in 101.102(2) shall be accepted.

1. One semester credit = 10 hours of continuing education credit.

2. One trimester credit = 8 hours of continuing education credit.

3. One quarter credit = 7 hours of continuing education credit.

A course description and an official school transcript indicating successful completion of the course must be provided by the licensee to receive credit for an academic course if continuing education is audited.

101.102(6) Presenters of a structured continuing education program or college course that meets the criteria established in 101.102(2) may receive 1.5 times the number of hours granted the attendees. These hours shall be granted only once per biennium for identical presentations.

This rule is intended to implement Iowa Code section 272C.2.

645—101.103(272C) Approval of sponsors, programs, and activities.

101.103(1) Accreditation of sponsors. An organization or person not previously accredited by the board, which desires accreditation as a sponsor of courses, programs, or other continuing education activities shall apply for accreditation to the board stating its education history for the preceding two years, including approximate dates, subjects offered, total hours of instruction presented, and the names and qualifications of instructors. By January 31 of each year, commencing January 31, 1980, all accredited sponsors shall report to the board in writing the education programs conducted during the preceding calendar year. The board may at any time reevaluate an accredited sponsor. If, after the reevaluation, the board finds there is basis for consideration of revocation of the accreditation of an accredited sponsor, the board shall give notice by ordinary mail to that sponsor of a hearing on such possible revocation at least 30 days prior to said hearing.

The provider shall state on all continuing education literature: “(Provider’s name) is an Iowa Board of Mortuary Science Examiners approved provider # _____. This program is approved for _____ hours of funeral director continuing education.”

101.103(2) *Prior approval of activities.* An organization or person other than an accredited sponsor, which desires prior approval of a course, program or other continuing education activity, or who desires to establish accreditation of an activity prior to attendance thereat, shall apply for approval to the board at least 30 days in advance of the commencement of the activity on a form provided by the board. The board shall approve or deny the application in writing within 30 days of receipt of the application. The application shall state the dates, subjects offered, total hours of instruction, names and qualifications of speakers and other pertinent information.

101.103(3) *Post approval of activities.* A licensee seeking credit for attendance and participation in an educational activity which was not conducted by an accredited sponsor nor otherwise approved shall submit to the board, within 30 days after completion of such activity, a request for credit, including a brief resume of the activity, its dates, subjects, instructors, and their qualifications and the number of credit hours requested therefor. Within 90 days after receipt of an application the board shall advise the licensee in writing by ordinary mail whether the activity is approved and the number of hours allowed therefor. A licensee not complying with the requirements of this subparagraph may be denied credit for such activity.

101.103(4) *Review of programs.* The board may monitor or review any continuing education program already approved by the board and upon evidence of significant variation in the program presented from the program approved may disapprove all or any part of the approved hours granted the program.

645—101.104(272C) *Hearings.* In the event of denial, in whole or in part, of any application for approval of a continuing education program or credit for continuing education activity, the applicant or licensee shall have the right, within 20 days after the sending of the notification of the denial by ordinary mail, to request a hearing which shall be held within 60 days after receipt of the request for hearing. The board adopts the rules of the department of public health found in 641—Chapter 173 for hearings. The hearing shall be conducted by the board or a qualified hearing officer designated by the board. If the hearing is conducted by an administrative law judge, the administrative law judge shall submit a tape recording or a transcript of the hearing including exhibits to the board after the hearing with the proposed decision of the administrative law judge.

645—101.105(272C) *Report of licensee.* Each licensee shall file a signed report with the application for renewal no later than April 1 of the year following the calendar year in which claimed continuing education hours were completed. The report shall be sent to the Department of Public Health, Licensing and Certification Section, Board of Mortuary Science Examiners, Lucas State Office Building, Des Moines, Iowa 50319-0075.

645—101.106(272C) *Attendance record report.* The person or organization sponsoring continuing education activities shall make a written record of the Iowa licensees in attendance and keep a roster of attendees for four years.

645—101.107(272C) Disability or illness. The board may, in individual cases involving disability or illness, grant waivers of the minimum education requirements or extensions of time within which to fulfill the same or make the required reports. No waiver or extension of time shall be granted unless written application is made on forms provided by the board and signed by the licensee and an appropriately licensed health care professional, and the waiver is acceptable to the board. Waivers of the minimum educational requirements may be granted by the board for any period of time not to exceed one calendar year. In the event that the disability or illness upon which a waiver has been granted continues beyond the period of the waiver, the licensee must reapply for an extension of the waiver. The board may, as a condition of any waiver granted, require the applicant to make up a certain portion or all of the minimum educational requirements waived by such methods as may be prescribed by the board.

645—101.108(272C) Exemptions for inactive practitioners. A licensee who is not engaged in practice in the state of Iowa residing within or without the state of Iowa may be granted a waiver of compliance and obtain a certificate of exemption upon written application to the board. The application shall contain a statement that the applicant will not engage in the practice of mortuary science in Iowa without first complying with all regulations governing reinstatement after exemption. The application for a certificate of exemption shall be submitted upon the form provided by the board.

645—101.109(272C) Reinstatement of inactive practitioners. Inactive practitioners who have been granted a waiver of compliance with these rules and obtained a certificate of exemption shall, prior to engaging in the practice of mortuary science in the state of Iowa, satisfy the following requirements for reinstatement:

101.109(1) Submit written application for reinstatement to the board upon forms provided by the board with the application fee for reinstatement of license and the examination fee, if applicable, as provided in rule 645—101.98(147); and

101.109(2) Furnish in the application evidence of one of the following:

a. The full-time practice of mortuary science in another state of the United States or the District of Columbia and completion of the continuing education for each year of inactive status substantially equivalent in the opinion of the board to that required under these rules; or

b. Successful completion of the national and state license examination conducted within one year immediately prior to the submission of the application for reinstatement; or

c. Completion of 24 hours of board-approved continuing education and successful completion of an examination administered by the board.

645—101.110 to 101.199 Reserved.

DISCIPLINARY PROCEDURES FOR FUNERAL DIRECTORS

645—101.200(272C) Definitions. For the purpose of these rules, the following definitions shall apply:

“*Board*” means the board of mortuary science examiners.

“*Crematory*” means any person, partnership or corporation that performs cremation and sells funeral goods.

“*Funeral establishment*” means a place of business as defined by the board devoted to providing any aspect of mortuary science.

“*Funeral services*” means any services which may be used to care for and prepare deceased human bodies for burial, cremation or other final disposition; and arrange, supervise or conduct the funeral ceremony or the final disposition of deceased human bodies.

“*Licensee*” means any person licensed to practice as a funeral director in the state of Iowa.

645—101.201(272C) Complaint. Rescinded IAB 6/30/99, effective 8/4/99.

645—101.202(272C) Report of malpractice claims or actions. Rescinded IAB 6/30/99, effective 8/4/99.

645—101.203(272C) Investigation of complaints or malpractice claims. Rescinded IAB 6/30/99, effective 8/4/99.

645—101.204(272C) Alternative procedure and settlement. Rescinded IAB 6/30/99, effective 8/4/99.

645—101.205(272C) License and intern registration denial. Rescinded IAB 6/30/99, effective 8/4/99.

645—101.206(272C) Notice of hearing. Rescinded IAB 6/30/99, effective 8/4/99.

645—101.207(272C) Hearings open to the public. Rescinded IAB 6/30/99, effective 8/4/99.

645—101.208(272C) Hearings. Rescinded IAB 6/30/99, effective 8/4/99.

645—101.209(272C) Appeal. Rescinded IAB 6/30/99, effective 8/4/99.

645—101.210 Rescinded, effective 7/1/79.

645—101.211(272C) Publication of decisions. Rescinded IAB 6/30/99, effective 8/4/99.

645—101.212(272C) Grounds for discipline.

101.212(1) The board may impose any of the disciplinary sanctions set forth in rule 645—13.1(272C), including civil penalties in an amount not to exceed \$1000, when the board determines that the licensee is guilty of the following acts or offenses:

- a. Fraud in procuring a license.
- b. Professional incompetency.
- c. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
- d. Habitual intoxication or addiction to the use of drugs.
- e. Conviction of a felony related to the profession or occupation of the licensee, or the conviction of any felony that would affect the licensee's ability to practice within a profession. A copy of the record of conviction or plea of guilty shall be conclusive evidence.

Conviction of a felony related to the profession or occupation of the licensee or the conviction of any felony that would affect the licensee's ability to practice within a profession includes, but is not limited to the conviction of a funeral director who has committed a public offense in the practice of the profession which is defined or classified as a felony in this state, another state, or the United States, which statute or law relates to the practice of mortuary science, or who has been convicted of a felonious act, which is so contrary to honesty, justice or good morals, and so reprehensible as to violate the public confidence and trust imposed upon the licensee as a funeral director in this state.

- f. Fraud in representations as to skill or ability.
- g. Use of untruthful or improbable statements in advertisements.
- h. Willful or repeated violations of the provisions of Iowa Code chapter 147 or 156.

101.212(2) Violation of the rules promulgated by the board.

101.212(3) Personal disqualifications:

a. Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

b. Involuntary commitment for treatment of mental illness, drug addiction or alcoholism.

101.212(4) Practicing the profession while the license is suspended.

101.212(5) Suspension or revocation of license by another state.

101.212(6) Negligence by the licensee in the practice of the profession, which is a failure to exercise due care including negligent delegation to or supervision of employees or other individuals, whether or not injury results; or any conduct, practice or conditions which impair the ability to safely and skillfully practice the profession.

101.212(7) Prohibited acts consisting of the following:

- a. Permitting an unlicensed employee or person under the licensee's control to perform activities requiring a license.
- b. Permitting another person to use the license for any purpose.
- c. Practice outside the scope of a license.
- d. Obtaining, possessing, or attempting to obtain or possess a controlled substance without lawful authority; or selling, prescribing, giving away, or administering controlled substances.
- e. Verbally or physically abusing next of kin.

101.212(8) Unethical business practices, consisting of any of the following:

- a. False or misleading advertising.
- b. Betrayal of a professional confidence.
- c. Falsifying business records.

101.212(9) Failure to report a change of name or address within 30 days after it occurs.

101.212(10) Submission of a false report of continuing education or failure to submit the annual report of continuing education.

101.212(11) Failure to notify the board within 30 days after occurrence of any judgment or settlement of a malpractice claim or action.

101.212(12) Failure to report to the board as provided in rule 101.201(272C) any violation by another licensee of the reasons for disciplinary action as listed in this rule.

101.212(13) Failure to disclose the items listed in rule 645—101.7(17A) mandatory disclosure.

101.212(14) Embalming or attempting to embalm a deceased human body without first having obtained authorization from a family member or representative of the deceased except where embalming is done to meet the requirements of applicable state or local law.

Notwithstanding the above provisions, a funeral director may embalm without authority when after due diligence no authorized person can be contacted and embalming is in accordance with legal or accepted standards in the community, or the licensee has good reason to believe that the family wishes embalming. The order of priority for those persons authorized to permit embalming is found in Iowa Code section 142A.2(2). If embalming is performed under these circumstances, the licensee shall not be deemed to be in violation of the prohibition in this section.

No misrepresentation as to legal needs or other requirements for embalming shall be made.

101.212(15) Failure to comply with the requirements of Iowa Code chapter 523A.

101.212(16) Violation of regulations promulgated by the Federal Trade Commission.

645—101.213(272C) Method of discipline: licensed funeral establishments and licensed cremation establishments.

101.213(1) The board has authority to impose the following disciplinary sanctions:

1. Refuse to issue or renew a license.
2. Revoke a license.
3. Restrict, cancel or suspend a license.
4. Place a license on probation.
5. Impose a penalty not to exceed \$10,000.
6. Issue a reprimand.

101.213(2) The board may impose any of the sanctions if the board finds that the applicant or licensee has done any of the following:

- a.* Committed fraud in the procurement of an establishment license.
- b.* Been convicted of a felony or a misdemeanor involving moral turpitude, or if the applicant is an association, joint stock company, partnership, or corporation, that a managing officer has been convicted of a felony involving moral turpitude under the laws of this state, another state, or the United States.
- c.* Violated Iowa Code chapter 156 or any rule promulgated by the board or that any owner or employee of the establishment has violated Iowa Code chapter 156 or any rules promulgated by the board.
- d.* Knowingly aided, assisted, procured, or allowed a person to unlawfully practice mortuary science.
- e.* Failed to engage in or ceased to engage in the business for which the license was granted.
- f.* Failed to keep and maintain records as required by Iowa Code chapter 156 or rules promulgated by the board.
- g.* Knowingly made misleading, deceptive, untrue or fraudulent representations in the funeral practice or engaged in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.
- h.* Engaged in unethical business practices including false or misleading advertising, falsifying business records or failure to disclose the items.
- i.* Failed to comply with the requirements of Iowa Code chapter 523A.
- j.* Violated any of the regulations promulgated by the Federal Trade Commission.

645—101.214(272C) Disciplinary proceedings for funeral and cremation establishments. Disciplinary proceedings regarding the funeral establishment or cremation establishment license shall be initiated and conducted in conformance with Iowa Code chapter 17A and shall be initiated and conducted in accordance with the disciplinary procedures for funeral directors.

645—101.215(272C) Peer review committees.

101.215(1) Each peer review committee for the profession, if established, may register with the board of examiners within 30 days after the effective date of these rules or within 30 days after formation.

101.215(2) Each peer review committee shall report in writing within 30 days of the action, any disciplinary action taken against a licensee by the peer review committee.

101.215(3) The board may appoint peer review committees as needed consisting of not more than five persons who are licensed to practice funeral directing to advise the board on standards of practice and other matters relating to specific complaints as requested by the board. The peer review committee shall observe the requirements of confidentiality provided in Iowa Code section 272C.6.

These rules are intended to implement Iowa Code sections 272C.3, 272C.4, 272C.5, 272C.6 and 272C.10.

645—101.216 to 101.299 Reserved.

PROCEDURES FOR USE OF CAMERAS AND
RECORDING DEVICES AT OPEN MEETINGS

645—101.300(21) Conduct of persons attending meetings.

101.300(1) The person presiding at a meeting of the board may exclude a person from an open meeting for behavior that obstructs the meeting.

101.300(2) Cameras and recording devices may be used at open meetings provided they do not obstruct the meeting. If the user of a camera or recording device obstructs the meeting by the use of such device, the person presiding may request the person to discontinue use of the camera or device. If the person persists in use of the device or camera, that person shall be ordered excluded from the meeting by order of the board member presiding at the meeting.

These rules are intended to implement Iowa Code section 21.7.

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CHAPTER 102 DECLARATORY RULINGS

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 103 PETITIONS FOR RULE MAKING

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 104 AGENCY PROCEDURE FOR RULE MAKING

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 105 to 108 Reserved

CHAPTER 109 PUBLIC RECORDS AND FAIR INFORMATION PRACTICES

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 110 to 113 Reserved

CHAPTER 114 IMPAIRED PRACTITIONER REVIEW COMMITTEE

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTER 115 CHILD SUPPORT NONCOMPLIANCE

Rescinded IAB 6/30/99, effective 8/4/99

CHAPTERS 116 to 119 Reserved